

REPRESENTATIVE FOR PETITIONER:
Bradley J. Adamsky, Attorney

REPRESENTATIVE FOR RESPONDENT:
Christopher A. Buckley, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Susan Zucker	)	Petition Nos.:	64-011-14-1-5-20546-15
	)		64-011-14-1-5-20549-15
	)		64-011-14-1-5-20550-15
Petitioner	)		64-011-14-1-5-20551-15
	)		64-011-14-1-5-20552-15
	)		64-011-14-1-5-20553-15
)		
	)	Parcel Nos.:	64-04-03-202-011.000-011
v.	)		64-04-03-202-035.000-011
	)		64-04-03-202-034.000-011
	)		64-04-03-202-033.000-011
	)		64-04-03-202-032.000-011
	)		64-04-03-202-031.000-011
)		
Porter County Assessor,	)	County:	Porter
)		
Respondent.	)	Assessment Year:	2014

Appeal from the Final Determination of the
Porter County Property Tax Assessment Board of Appeals

February 13, 2017

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

1. The parties offered competing expert opinions about the subject property's value and each party leveled valid criticisms of the opposing expert's opinion. Ultimately, we are slightly more troubled by certain flaws in Respondent's appraisal such as the mathematical errors, the choice of comparable properties located outside of the subject community, and the fact that Respondent's expert did not actually view the property.

PROCEDURAL HISTORY

2. Petitioner initiated her appeals with the Porter County Property Tax Assessment Board of Appeals ("PTABOA"). On September 28, 2015, the PTABOA issued its notices of final determination. For 2014, the PTABOA determined the following values:

Parcel Number	Land	Improvements	Total
64-04-03-202-011.000-011("Parcel 11")	\$256,500	\$551,800	\$808,300
64-04-03-202-035.000-011("Parcel 35")	\$34,500		\$34,500
64-04-03-202-034.000-011("Parcel 34")	\$35,100		\$35,100
64-04-03-202-033.000-011("Parcel 33")	\$41,900		\$41,900
64-04-03-202-032.000-011("Parcel 32")	\$44,200		\$44,200
64-04-03-202-031.000-011("Parcel 31")	\$118,900		\$118,900
Total			\$1,082,900

3. Petitioner then filed Form 131 petitions with the Board on November 6, 2015.

4. On August 17, 2016, the Board’s administrative law judge (“ALJ”), Ellen Yuhan, held a hearing. Neither she nor the Board inspected the property.

5. The following people were sworn and testified:

Petitioner: Susan Zucker, Taxpayer
Louis Pezzuto, Certified Appraiser

Respondent: Russell Gower, Porter County Deputy Assessor
Aaron Ingram, Certified Appraiser

6. Petitioner offered the following exhibits:

Petitioner Exhibit 1: Notices of Hearing
Petitioner Exhibit 2: Form 131 Filings
Petitioner Exhibit 3: Appraisal by Louis A. Pezzuto¹
Petitioner Exhibit 4: Property record cards (“PRCs”) for other properties
Petitioner Exhibit 5: Arlene Beglin letter
Petitioner Exhibit 6: Pictures from subject property (view)
Petitioner Exhibit 7: List of neighborhood sales

7. Respondent offered the following exhibits:

Respondent Exhibit 1: PRCs for the subject parcels
Respondent Exhibit 2: Residential Appraisal Review Report by Aaron Ingram

8. The following additional items are officially recognized as part of the record:

Board Exhibit A: Form 131 petitions
Board Exhibit B: Notices of Hearing
Board Exhibit C: Hearing sign-in sheet.

9. The subject property consists of six parcels, one of which (“Parcel 11”) contains a single-family dwelling, located at 6 Merrivale Avenue in Beverly Shores.²

10. Petitioner’s appraisal indicated a value of \$692,000 as of March 1, 2014, which is the value Petitioner requested on her Forms 131. At the hearing, Petitioner’s counsel argued,

¹ On its exhibit list, Petitioner listed the appraisal as being performed by Valuation Services, LLC. Mr. Pezzuto is actually with LaPorte County Appraisal Service, Inc., while Mr. Ingram is with Valuation Services, LLC.

² The property actually consists of seven parcels but Petitioner only appealed the values for six of them.

despite the appraisal, the 2013 assessed value of \$644,600 should be carried forward because Respondent did not prove that the value should have been raised.

OBJECTION

11. Respondent's counsel, when asked by the ALJ, expressly said he had no objection to any of Petitioner's exhibits. Respondent's counsel did make a hearsay objection when Petitioner's counsel asked Petitioner about a conversation relating to Petitioner Exhibit 5, the Arlene Beglin letter. *See* Ind. Evidence Rule 801(c) (defining hearsay as a statement that "(1) is not made by the declarant while testifying at the trial or hearing; and (2) is offered in evidence to prove the truth of the matter asserted.").
12. Even if the letter or the conversation are hearsay, our procedural rules allow us to admit hearsay, with one caveat: if the opposing party properly objects to the hearsay and it does not fall within a recognized exception to the hearsay rule, we cannot base our determination solely on that evidence. *See* 52 IAC 2-7-3. That said, our determination herein is not solely based on the evidence at issue and we therefore admit it over Respondent's objection.

BURDEN OF PROOF

13. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that his property's assessment is wrong and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). A burden-shifting statute creates two exceptions to that rule.
14. First, Ind. Code § 6-1.1-15-17.2 "applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax

year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).

15. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15,” except where the property was valued using the income capitalization approach in the appeal. Under subsection (d), “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d).
16. These provisions may not apply if there was a change in improvements, zoning, or use. Ind. Code § 6-1.1-15-17.2(c).
17. The 2014 overall assessed value increased to \$1,082,900 from the 2013 assessed value of \$644,600. Petitioner argues Respondent has the burden of proof for 2014 because that increase amounted to more than 5%. Respondent, however, argues that the improvements on Parcel 11 were only assessed at 40% complete for 2013, while they were assessed as 100% complete for 2014.
18. Petitioner testified that she had conditional occupancy and the house was substantially complete for Thanksgiving of 2012. She claims the only significant changes after that would have been the completion of the deck framing. According to Ms. Zucker, 2016 would be the fourth Thanksgiving celebration held at the house.

19. Respondent argues that, if 2016 would be Petitioner's fourth Thanksgiving at the house, the first Thanksgiving must have been in 2013. Further, Mr. Gower testified that, while he was uncertain as to when the house was completed, the first year that it was assessed as complete was 2014. That change is what caused the increase in assessed value from 2013 to 2014.
20. The only documentation that sheds any light on the completion date of the house is the PRC for Parcel 11. In the "Notes" section, for July 17, 2013, it states "General: Per work sheet added decks, porch and 100% complete." The previous entry dated May 4, 2012, states "Construction at 40% complete for 2012 pay 2013."
21. It appears the increase in 2014 is due to a change in the structural improvements that were not considered in the assessment for 2013. Thus, Respondent contends, and the Board agrees, the burden-shifting provisions are inapplicable pursuant to Ind. Code § 6-1.1-15-17.2(c). Consequently, Petitioner has the burden of proof for 2014.

PETITIONER'S CONTENTIONS

22. Petitioner contends the 2014 assessed value is too high. Ms. Zucker thought the 2014 assessment should have been similar to the 2013 assessment and was shocked when she learned that the assessment had nearly doubled. Consequently, Petitioner engaged Louis Pezzuto, a certified residential appraiser, to appraise the subject property. Mr. Pezzuto asserts that he performed the appraisal in accordance with the Uniform Standards of Professional Appraisal Practice ("USPAP") and valued the property at \$692,000 as of December 31, 2014. Pezzuto testimony; *Pet'r Ex. 3*.
23. Mr. Pezzuto considered several characteristics when preparing his appraisal. First and foremost, he contends that properties located on the lake are more valuable than those that are not, and those values decline precipitously as one moves farther from the water. The subject property, Mr. Pezzuto contends, is not a lakefront property and has only a partial lake view because of the surrounding trees.

24. Mr. Pezzuto also considered certain utility aspects of the subject property. In his opinion, from functional and physical standpoints, the subject property does not have an ideal layout. For example, he contends Petitioner's lots on which the dwelling is not situated are not buildable and thus, only benefit the owner. Consequently, he afforded those lots lower values. *Pezzuto testimony; Pet'r Ex. 3.*
25. Mr. Pezzuto noted the gravel driveway is very narrow with treacherous drop-offs on either side making access to the property extremely dangerous. He contends that while there may be other properties in Beverly Shores with similar topography, he personally has not seen a driveway as dangerous as that of the subject. In fact, many of Petitioner's visitors refuse to use the driveway when visiting and instead use a steep stairway to reach the house. *Pezzuto testimony; Zucker testimony. Pet'r Ex. 3.*
26. Mr. Pezzuto contends that other considerations include strict septic guidelines, such that the property can only sustain one septic system. He also observed on inspection that on the west side of the house there is no room to erect a ladder to perform routine maintenance and that in order to do so special equipment would be required. According to Mr. Pezzuto, because of the characteristics discussed herein, the highest and best use of the subject property is a single-family dwelling located on the one inhabitable lot in conjunction with the other uninhabitable attached lots. *Pezzuto testimony.*
27. In developing his land value, Mr. Pezzuto analyzed six sales and four listings. He considered lakefront lots and non-lakefront lots. He determined the median price per square foot was \$6.58. He believed about half an acre, or 21,780 square feet, of the subject property was good, usable, land and, consequently, estimated a value of \$143,212 for that portion. He estimated the remainder of the land at 15% of the median value, or \$.98 times 86,248 square feet, for \$84,500. That resulted in a total land value of approximately \$228,000. Mr. Pezzuto testified that he did not fully develop the cost approach because he felt the value of the land was the prevailing issue with regard to the subject property, but he admitted he did not explain that point in the actual appraisal. *Pezzuto testimony; Pet'r Ex. 3.*

28. For his sales comparison approach, Mr. Pezzuto used five sales and one listing of improved properties located in Beverly Shores. The first three properties, 3 S. Greatwater, 101 E. Lake Front Drive, and 9 S. Pleasant, have lake frontage and have superior views as compared to the subject property. He made \$225,000 adjustments for those properties' superior locations, which he deemed reasonable. He also made adjustments for other differences between the properties such as lot size, age, living area, and amenities. The properties at 112 Merrivale and 313 Ripplewater had no lake views so they were adjusted accordingly. The listing on 12 Beach had a superior lake view compared to the subject property and was also adjusted accordingly. In light of these considerations, Mr. Pezzuto determined the value of the subject property to be \$692,000 based on the sales comparison approach. *Pezzuto testimony; Pet'r Ex. 3.*
29. According to Mr. Pezzuto, even though the appraisal form he used indicated the appraisal was for mortgage purposes, the appraisal was actually prepared for *ad valorem* purposes. He felt that he adequately explained that, described the scope of work performed, and substantially identified the client in his report. *Pezzuto testimony.*
30. In addition to the appraisal, Ms. Zucker approached a realtor who was purportedly very familiar with properties in Beverly Shores and had actually visited the Greatwater property. The realtor offered her opinion concerning the comparability of the Greatwater property to the subject property. Ms. Beglin noted the fact that the Greatwater property was a 5,000 square foot home with five bathrooms and an in-ground pool, while the subject property has only 2,500 square feet, three bathrooms, and no pool. Ms. Beglin valued the subject home at \$375,000 with an additional \$300,000 for the land for a total of \$675,000. *Zucker testimony; Pet'r Exs. 5 and 7.*
31. In the review of Mr. Petuzzo's appraisal, Respondent's expert incorrectly adjusted certain comparables. Petitioner contends such mathematical errors affect the credibility of specific values in the report, and they affect the overall credibility of the review. *Pezzuto testimony.*

32. Respondent's expert depended heavily on comparables outside of the Beverly Shores area, even though there were more relevant comparables located closer to the subject area. Petitioner contends that using comparables situated nearer to the subject area would have resulted in a more reliable review. *Pezzuto testimony.*
33. To summarize, Petitioner engaged an appraiser who is actually familiar with the subject property, who has visited the property, who has personally traversed the steep incline of the property, taken in its limited views, and is fully appreciative of the differences in value associated with lake view as opposed to non-lake view parcels. *Adamsky argument.*
34. On the other hand, Petitioner contends, Respondent's expert made a large number of assumptions in performing his review. Petitioner contends Respondent's expert used sales that were not comparable, and made several mathematical errors in reaching his estimate of value. Regardless of how such errors might affect the validity of specific values contained in a report, such errors represent flaws in arriving at an estimate of overall value and undermine the reliability. Petitioner contends that these substantive errors undermine the overall estimate of value. *Adamsky argument.*
35. Petitioner contends that the total assessed value for 2014 of \$1,082,900 is not supported by the evidence. Petitioner's appraisal values the property at \$692,000. Petitioner, nonetheless, believes the value of \$644,600 should still be carried forward from 2013 because Respondent has not met its burden of proof to establish any justification for raising the assessment. *Adamsky argument.*

RESPONDENT'S CONTENTIONS

36. Petitioner engaged Aaron Ingram, a certified residential appraiser, to review Mr. Pezzuto's appraisal and to determine an independent opinion of value. Mr. Ingram opined that Mr. Pezzuto's appraisal did not comply with USPAP because:

- Mr. Pezzuto did not develop a clear scope of work under which the appraisal was performed.
- USPAP requires an appraiser to correctly employ recognized methods and techniques, but Mr. Pezzuto used a non-compliant form in a manner in that it was not intended to be used.
- USPAP requires an appraiser to not make an error or series of errors that affect credibility, but the outdated forms, along with multiple portions of the report that were incomplete, lead to a less than credible report.
- USPAP requires an appraisal report to identify a client, Mr. Pezzuto does not.
- USPAP requires an appraisal report to identify an intended use, Mr. Pezzuto's appraisal report does not.
- USPAP requires an appraisal report to identify the type and definition of value. Mr. Pezzuto's report incorrectly defines market value and then states it should be "tax value," but no definition is provided.
- USPAP requires the cost approach to be fully developed, but in this case it was not. On a newer home, the cost approach would likely be a universally employed method in the industry.
- USPAP requires a report to be prepared as either an Appraisal Report, or a Restricted Appraisal Report. Mr. Pezzuto identifies the report as a "Summary Report," which no longer exists in the USPAP framework.
- USPAP requires a reconciliation or reasoning for the exclusion of any of the approaches, but Mr. Pezzuto gave no reconciliation or reasoning in his report.
- Mr. Pezzuto's appraisal report is not credible, does not meet the standards of the appraiser's peers, is very limited in the information presented, and is based on faulty premises. *Ingram testimony; Resp't Ex. 2.*

37. Respondent also challenged the following aspects of Mr. Pezzuto's appraisal:
- The quality of construction for comparable 1, 3 S. Greatwater, is much less than the subject property.
 - Comparable 2, 101 E. Lake Front Drive, sold 20 months before the effective date of the appraisal. There is no adjustment for market conditions and, in Respondent's opinion, the market changed in light of inflation, if not outright appreciation.
 - Comparable 2 is an older home built in 1988. Mr. Pezzuto made a \$75,000 adjustment for the 23 year age difference between it and the subject property. Research shows 1% to 2% a year would be more appropriate. An appropriate adjustment would be around \$200,000.
 - The MLS information for comparable 2 describes the house as needing renovating and being sold as is. The photographs show the home is of vastly inferior quality and condition to the subject.
 - The days on market ("DOM") for comparable 2 should include the combined DOM of 360.
 - Comparables 4 and 5 are inferior to the subject. They also would not appeal to the same market and should not be considered in the formation of a value opinion.

Ingram testimony; Resp't Ex. 2.

38. Mr. Ingram also developed an opinion of value for the subject property. Mr. Ingram prepared a cost approach to value based on Marshall and Swift Valuation Services. Mr. Ingram used Class C pricing with a rating of I for an above average to good quality home. After applying the local cost multipliers to the base price, Mr. Ingram calculated a square foot price of \$237.30, which resulted in a value of \$593,950.69. He then added 10% for entrepreneurial profit. The total cost new for the property is \$653,345.76. *Ingram testimony; Resp't Ex. 2.*
39. For the depreciation, Mr. Ingram assigned 4.6% for direct age life. He also applied 35% functional loss. The functional loss was based on a study of higher end homes in

Northwest Indiana showing it typically costs more to build a custom home of this nature than what one would be able to sell it for. The depreciated value of the home is \$394,620.84. *Ingram testimony; Resp't Ex. 2.*

40. Mr. Ingram added the cost of other improvements to the value. Those improvements included utilities/drainage, driveway, basement/garage, landscaping/grading, and appliances/amenities. These improvements totaled \$172,140, bringing the value to \$566,760.84. When added to the site value of \$600,000, the indicated value by the cost approach was \$1,170,000 (rounded). *Ingram testimony; Resp't Ex. 2.*

41. Mr. Ingram also prepared a sales comparison approach. Mr. Ingram selected six purportedly comparable properties that were not necessarily proximate to the subject property, but would appeal to a similar market:

- Comparable 1, 3 S. Greatwater, has proximity to the subject property. It is larger than the subject property and has an in-ground pool. It is an older home and lower quality than the subject property, but would appeal to the same buyers in the market looking for a home in Beverly Shores.
- Comparable 2, 9 S. Pleasant, is also in Beverly Shores. It is on less than half an acre. It is about 300 square feet larger than the subject property, but has no basement. It has a one-car garage and two extra fireplaces.
- Comparable 3, 5 Cypress, is in Dune Acres. This site has just under one acre with no lake views or real proximity to the lake. It was built in 2003 and is about 20% larger than the subject property with a similar small basement.
- Comparable 4, 425 Roberts, is in Beverly Shores on a half-acre lot with no lake view. Built in 1999, it is smaller than the subject property but has a similar finished basement.
- Comparable 5, 315 Sunset Trail, is in Michigan City. It is on a wooded site that is smaller than the subject property, but Michigan City and Long Beach have lower building requirements, so he adjusted it similarly to the half-acre sites in Beverly

Shores. This property is approximately the same age and size as the subject with a smaller basement and a one-car garage.

- Comparable 6, 2230 Lakeshore Drive, is in Long Beach. It is a lake front property, and was adjusted by approximately \$500,000 due to its proximity to the lake. This is a new house of superior quality.

Ingram testimony; Resp't Ex. 2.

42. Mr. Ingram's estimate of value pursuant to the sales comparison approach was \$1,100,000. He did not prepare an income capitalization approach because most homes in Beverly Shores are not purchased for income generating purposes. Considering all of the approaches, Mr. Ingram arrived at a reconciled value of \$1,100,000 under the sales comparison approach. *Ingram testimony; Resp't Ex. 2.*
43. According to Mr. Ingram, the ability to build on the unimproved lots would not affect his market analysis. He contends that the subject property is larger than most in Beverly Shores and is a private site with at least some lake views and better seasonal views, which are very desirable. He did not account for the partial lake view in his appraisal because he did not inspect the property. He was forced to rely on aerial photographs to determine the proximity to the lake and then look at photographs to determine a relative height. The pictures Petitioner submitted show the view from the common area, which was described as the main floor. The views are assumed to be better from the second floor and from the tower area. *Ingram testimony; Pet'r Ex. 6.*
44. Mr. Ingram admitted he had to make other assumptions in both the cost approach and the sales comparison because he did not visit the subject property. Some of the values he used for the site improvements in the cost approach are included in the cost manual. He has appraised a number of new construction properties in similar lake communities on challenging sites and he was able to review past contractor statements of regarding some of those costs. *Ingram testimony.*

45. Mr. Ingram admitted he made an error in the age adjustments of the comparables. He made the age adjustment in the wrong direction for each of the comparable properties. According to Mr. Ingram, correcting that error would raise the value and he would probably have reconciled the value closer to \$1.15 million instead of \$1.1 million. *Ingram testimony; Resp't Ex. 2.*
46. Mr. Ingram did conduct an analysis of comparable sales to estimate the land value in the cost approach. The site adjustments for the properties used in the sales comparison approach are different than his land valuation in the cost approach. The site adjustments made to the sales comparables are for the totality of the site and the view based on an analysis of the underlying land value of each comparable sale. *Ingram testimony.*
47. As of March 1, 2013, the property was not assessed as complete. As of March 1, 2014, it was assessed as 100% complete. Respondent contends that there are many Board decisions that state such a change does not trigger the 5% rule. In the alternative, if Respondent has the burden, the explanation provided by Respondent's employee that the change in assessment was due to the completion of the structure makes sense and is supported by Respondent's appraisal. *Buckley argument.*
48. Respondent presented a proper appraisal to support its position. While the appraisal admittedly contains some errors, the value would be higher if those errors were adjusted. *Buckley argument.*
49. Petitioner's appraisal does not comply with USPAP. The lack of conformance to standards should be considered when assigning probative weight to Petitioner's appraisal. *Buckley argument.*
50. In addition, Respondent's review indicated flaws in some of Mr. Pezzuto's adjustments including acreage measurements and size, age, and quality. Respondent contends these are significant flaws that also detract from the credibility. *Buckley argument.*

ANALYSIS

51. Real property is assessed based on its “true tax value”, which means “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property.” 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2); *see also* Ind. Code § 6-1.1-31-6(c). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques used to calculate market value-in-use. MANUAL at 2. Assessing officials primarily use the cost approach. MANUAL at 3. The cost approach estimates the value of the land as if vacant and then adds the depreciated cost new of the improvements to arrive at a total estimate of value. MANUAL at 2. Any evidence relevant to the true tax value of the property as of the assessment date may be presented to rebut the presumption of correctness of the assessment, including an appraisal prepared in accordance with generally recognized appraisal standards. MANUAL at 3.
52. Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the subject property’s market value-in-use as of the relevant valuation date. *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The valuation date was March 1, 2014. Ind. Code § 6-1.1-4-4.5(f).
53. An appraisal performed in conformance with generally recognized appraisal principles is often enough to establish a prima facie case. *Meridian Towers*, 805 N.E.2d at 479. Here, Petitioner presented an appraisal prepared by Louis A. Pezzuto, a certified residential appraisal, who asserted the appraisal was performed in accordance with USPAP. Mr. Pezzuto estimated the value of the property at \$692,000 as of December 31, 2014. While Mr. Pezzuto’s appraisal has an effective date nine months after the assessment date, four of the five comparable sales occurred during 2013 lending a measure of probative value to the appraised value. Therefore, Petitioner established a prima facie case that the assessment should be reduced.

54. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). To rebut or impeach the Petitioner's case, the Respondent has the same burden to present probative evidence that the Petitioner faced to raise its prima facie case. *Fidelity Fed. Sav. & Loan v. Jennings Co. Ass'r*, 836 N.E.2d 1075, 1082 (Ind. Tax Ct. 2005).
55. Respondent presented a Residential Appraisal Review Report with the Reviewer's Opinion of Value prepared by Aaron Ingram, a certified residential appraiser. Mr. Ingram estimated the value of the subject property was \$1,100,000 as of December 31, 2014. Therefore, the Board concludes that Respondent has provided evidence to initially rebut Petitioner's prima facie case. *See Meridian Towers East & West v. Washington Twp.*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003).
56. In weighing the persuasiveness of the estimated values, the Board will first analyze Petitioner's appraisal. Mr. Ingram contends Petitioner's appraisal contains numerous errors and does not comply with certain USPAP requirements. For example, Respondent contends that Petitioner did not develop a scope of work as required. Also, Respondent contends that Petitioner's appraiser used an outdated form in completing the appraisal which is typically used for mortgage financing purposes. According to Mr. Ingram, the appraiser also failed to identify a client, failed to identify an intended use, and failed to specifically identify the type and definition of value at issue.
57. We attach little significance to some of the criticisms of Mr. Pezzuto's work. There is no rule within USPAP regarding what specific form should or should not be used. Further, while the cover sheet may not specifically use the term "client," it does state that the appraisal is being provided for "Susan Zucker, Rev Living trust" and the transmittal letter is clearly addressed to "Susan Rucker Revocable Trust." The transmittal letter also states the report is an appraisal report to provide a market value-in-use for *ad valorem* tax purposes and that the appraisal is to be used for that purpose. Although, it does not

specifically name other intended users, the transmittal letter does state the report can be used by more than one person if desired or any person serving on Petitioner's behalf.

58. Mr. Ingram identified other errors by Mr. Pezzuto. All of these errors raise questions about the care Mr. Pezzuto gave in arriving at his determination of value. But Mr. Ingram did not convince us of any errors that would significantly affect Mr. Pezzuto's estimate of value.
59. On the other hand, Mr. Ingram admittedly made several mathematical errors regarding his age adjustments. Those adjustments were ultimately made in the wrong direction for all of the purportedly comparable sales. Further, while Mr. Ingram testified that his research showed a 1% per year adjustment for differences in age would be appropriate for the Beverly Shores area, Mr. Ingram actually used \$10,000 per year for the age adjustments in his opinion of value.
60. While all of Mr. Pezzuto's purportedly comparable properties were in Beverly Shores, Mr. Ingram used comparable properties from other lake communities. Both appraisers made significant adjustments for items such as view, but only Mr. Pezzuto had actually observed the view from the subject property. In fact, Mr. Ingram had not visited the property and consequently just made various assumptions.
61. Both appraisers adjusted their sale prices for a variety of characteristics. Mr. Pezzuto's gross adjustments ranged from 39.4% to 79% with total dollar adjustments ranging from \$93,000 to \$316,000. Mr. Ingram's gross adjustments ranged from 44.2% to 103.3% with total dollar adjustments ranging from \$42,368 to \$985,750. While not always the case, larger adjustment discrepancies can indicate relatively less reliability of the comparable sales used in those appraisals.
62. For the cost approach, Mr. Pezzuto, believing the valuation of the land to be at the forefront of this appeal, determined a land value based on comparable sales. As a result, Mr. Pezzuto valued the land at \$228,000, but did not determine a cost value for the

improvements. Mr. Ingram, on the other hand, fully developed the cost of the improvements and added a site value of \$600,000 for a total value of \$1,170,000 under the cost approach. But, there is no detailed analysis about how Mr. Ingram arrived at that site value.

63. Additionally, while not probative evidence on its own, an opinion of value from a local realtor supports the Pezzuto appraisal. Ms. Beglin stated she would value the improvements at \$375,000 and the land at \$300,000 for a total of \$675,000.
64. Although both appraisals are somewhat probative, neither one is a perfect model of persuasion. Each contains flaws that detract from its overall reliability. Ultimately, the Board is more troubled, if only slightly, by Mr. Ingram's lack of personal knowledge of the property, the fact that he selected sales from outside of Beverly Shores while it appears there were other more relevant sales from which to choose, and the lack of care employed when applying certain adjustments. On the other hand, while Respondent pointed to various discrepancies in Mr. Pezzuto's appraisal regarding certain USPAP conventions, as well as a few "concerns" regarding the sales comparison approach, those points seem less significant to the probative value.

CONCLUSION

After weighing the documentation and testimony of the parties, the Board is more persuaded by Petitioner's valuation opinion. We therefore order Respondent to change the 2014 assessment to \$692,000.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review determines that the assessed value should be changed to \$692,000.

The Final Determination of the above captioned matter is issued by the Board on the date written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court Rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.